

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

OREGON BREWING COMPANY, an
Oregon corporation,

2320 OSU Drive
Newport, Oregon 97365

Plaintiff,

v.

ROGUE 24 LLC, a District of Columbia
limited liability company,

922 N Street NW
Washington, D.C. 20001,

and

RJ COOPER, an Individual,



Defendants.

Civil Action No.: _____

**COMPLAINT FOR TRADEMARK
COUNTERFEITING, TRADEMARK
INFRINGEMENT, FALSE
DESIGNATION OF ORIGIN, UNFAIR
COMPETITION AND TRADEMARK
CYBERSQUATTING**

Plaintiff Oregon Brewing Company ("OBC") for this Complaint against Defendants
Rogue 24 LLC and RJ Cooper (collectively "Defendants"), alleges as follows:

STATEMENT OF THE CASE

1. This is an action for trademark counterfeiting, trademark infringement, false designation of origin, and unfair competition. OBC owns the well-known mark ROGUE for restaurants, pubs and alcoholic beverages. Since 1989, OBC has continuously used the mark ROGUE in connection with the advertising, promotion and sale of alcoholic beverages, as well as in the name of a ROGUE-branded line of restaurants and brew pubs. OBC owns incontestable federal trademark registrations for ROGUE for alcoholic beverages and restaurants. Despite OBC's registrations, Defendants commenced use of the mark ROGUE in the name of their

restaurant and bar.

THE PARTIES

2. OBC is an Oregon corporation.

3. Defendant Rogue 24 is a District of Columbia limited liability company located at 922 N Street, NW, Washington, D.C. 20001.

4. Defendant RJ Cooper is an individual who, on information and belief, is the principal owner of Rogue 24 and conducts business in the District of Columbia.

JURISDICTION AND VENUE

5. OBC's claims arise under the trademark laws of the United States (Trademark Act of 1946, 15 U.S.C. § 1051 *et seq.*), and the laws of the District of Columbia. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331, 1332, 1338, 1367 and 15 U.S.C. § 1121. This Court has supplemental jurisdiction over the claims arising under the law of the District of Columbia pursuant to 28 U.S.C. § 1367(a), because those claims are so related to the federal claims that they form part of the same case or controversy and derive from a common nucleus of operative fact.

6. Venue is proper in this judicial district under 28 U.S.C. § 1391(b) because a substantial part of the events giving rise to the claims herein transpired in this judicial district.

FACTUAL BACKGROUND

7. OBC is among the oldest and most well-established micro-brewers in the United States. Since 1989, OBC has continuously used the mark ROGUE in the name of a ROGUE-branded line of restaurants and brew pubs, as well as for alcoholic beverages. OBC owns the following federal trademark registrations for ROGUE:

TRADEMARK	REG. NO.	REG. DATE	GOODS / SERVICES
ROGUE	1625132	11/27/1990	Wine
ROGUE	2669318	12/31/2002	Beer and ale
ROGUE	2913861	12/21/2004	Rum
ROGUE	3041464	01/10/2006	Restaurant, pub and catering services
ROGUE	3126616	08/08/2006	Beverage glassware
ROGUE	3744744	02/10/2010	Newsletters in the field of restaurants and entertainment
ROGUE	3773029	04/06/2010	Beer
ROGUE	3814477	07/06/2010	Distilled spirits

8. OBC's federally registered ROGUE marks issued prior to Defendants' conduct giving rise to this action. OBC's Registration Nos. 1625132; 2669318; 2913861; 3041464; and 3126616 for ROGUE have achieved "incontestable" status under the Lanham Act, meaning that they are "conclusive evidence" of OBC's "ownership" of these marks, of the registration of those marks, the "validity" of the marks, and of OBC's "exclusive right" to use the ROGUE marks in commerce for the goods and services specified in the federal registrations. *See* 15 U.S.C. §§ 1065, 1115(b).

9. OBC's ROGUE mark is inherently distinctive because it does not describe an attribute of OBC's goods or services.

10. OBC has invested considerable resources to develop and promote the mark ROGUE. For over 15 years, OBC has advertised its ROGUE line of restaurants and alcoholic beverages over the internet at **rogueales.com** and, starting in 1999, at **rogue.com**. On account of OBC's investment and its long and substantial use of the mark ROGUE, that mark has come to be associated exclusively with goods and services emanating exclusively from OBC. OBC owns

common law marks for ROGUE for alcoholic beverages, restaurant and pub services, beverage glassware and newsletters in the field of alcoholic beverages and restaurants.

11. OBC operates 11 restaurants and brewpubs which feature the mark ROGUE, including “Rogue House of Spirits.” OBC has been advertising and selling its well-known ROGUE lagers, ales, porters, stouts and spirits on the East Coast, including in the Washington Metropolitan Area, for over 15 years. OBC’s ROGUE mark for its lagers, ales, porters, stouts and spirits, restaurant and pub services is well-known in the Washington Metropolitan Area and was so long before of the conduct that forms the basis for this Complaint. OBC’s ROGUE-branded beer and spirits are frequently served in restaurants and bars across the country and in the Washington Metropolitan Area.

12. In July 2011, long after OBC’s first use and registration of the mark ROGUE, Defendants commenced use of the mark ROGUE as the name of their restaurant (“Rogue 24”) and adjoining bar (“Rogue Spirits”). In addition, Defendant RJ Cooper registered the domain name **rogue24.com** and began marketing and advertising the ROGUE restaurant and bar at **rogue24.com**, including photographs of people partaking in alcoholic beverages. A true and correct copy of webpages from Defendants’ website is attached as Exhibit A.

13. On information and belief, Defendants and Defendants’ actual and potential customers refer to Defendants’ restaurant and bar as “Rogue,” including on the menu. *See* Exhibit A. Defendants offer microbrews at their restaurant and bar, including on information and belief, OBC’s ROGUE beer.

14. OBC notified Defendants that their conduct infringed OBC’s federally registered trademarks. Nevertheless, Defendants continue to use the ROGUE mark.

15. Defendants’ conduct is likely to cause confusion, mistake and/or deception as to the affiliation, connection, or association of Defendants with OBC and as to whether OBC approves, sponsors or endorses Defendants’ services.

16. Defendants used OBC’s ROGUE mark with the intention of trading on the

goodwill and reputation of OBC's mark.

17. Unless enjoined, Defendants' continued unlawful conduct will irreparably injure OBC. OBC has no adequate remedy at law.

COUNT I
TRADEMARK COUNTERFEITING UNDER THE LANHAM ACT
(15 U.S.C. § 1114)

18. OBC incorporates by reference and re-alleges, as if fully set forth herein, paragraphs 1 through 17 of this Complaint.

19. OBC owns an incontestable federal trademark registration for ROGUE for restaurants services. Reg. No. 3041464.

20. Defendants' unauthorized use of ROGUE is likely to cause confusion, mistake, and deception as to the affiliation, connection, association, origin, sponsorship or approval of Defendants' services and business activities.

21. Defendants' unauthorized use of ROGUE constitutes trademark counterfeiting because Defendants knowingly and in bad faith used the identical or substantially indistinguishable marks ROGUE and ROGUE 24 for the services contained in Plaintiff's federal trademark registration for ROGUE, Reg. No. 3041464, i.e., restaurant services.

22. As a direct result of Defendants' intentionally wrongful conduct, Defendants are causing OBC irreparable harm.

COUNT II
TRADEMARK INFRINGEMENT, UNFAIR COMPETITION AND
FALSE DESIGNATION OF ORIGIN UNDER THE LANHAM ACT
(15 U.S.C. § 1114)

23. OBC incorporates by reference and re-alleges, as if fully set forth herein, paragraphs 1 through 22 of this Complaint.

24. OBC owns federal trademark registrations for ROGUE for restaurant and pub services, alcoholic beverages, glassware, and newsletters in the field of restaurants and alcoholic beverages.

25. Defendants' unauthorized use of ROGUE, ROGUE 24, and **rogue24.com** constitutes trademark infringement, unfair competition and false designation of origin because such conduct is likely to cause confusion, mistake, and deception as to the affiliation, connection, association, origin, sponsorship or approval of Defendants' services and business activities.

26. As a direct result of Defendants' intentionally wrongful conduct, Defendants are causing Plaintiff irreparable harm.

**COUNT III
TRADEMARK INFRINGEMENT, UNFAIR COMPETITION, AND
FALSE DESIGNATION OF ORIGIN UNDER THE LANHAM ACT
(15 U.S.C. § 1125)**

27. OBC incorporates by reference and re-alleges, as if fully set forth herein, paragraphs 1 through 26 of this Complaint.

28. OBC owns common law marks for ROGUE for alcoholic beverages, restaurant and pub services, beverage glassware and newsletters in the field of alcoholic beverages and restaurants.

29. Defendants' unauthorized use of ROGUE, ROGUE 24, and similar marks, as well as **rogue24.com**, constitutes trademark infringement, unfair competition and false designation of origin because such conduct is likely to cause confusion, mistake, and deception as to the affiliation, connection, association, origin, sponsorship or approval of Defendants' services and business activities.

30. As a direct result of Defendants' wrongful conduct, Defendants are causing OBC irreparable harm.

**COUNT IV
CYBER-SQUATTING UNDER THE LANHAM ACT
(15 U.S.C. § 1125)**

31. OBC incorporates by reference and re-alleges, as if fully set forth herein, paragraphs 1 through 30 of this Complaint.

32. Defendant RJ Cooper's ("Defendant Cooper") registration and use of **rogue24.com** constitutes cyber-squatting, because Defendant Cooper registered and used the domain name **rogue24.com** in a bad faith attempt to profit from OBC's ROGUE marks.

33. Defendant Cooper's domain name **rogue24.com** is confusingly similar to OBC's mark ROGUE and OBC's mark ROGUE was distinctive at the time Defendant registered the domain name **rogue24.com**.

34. As a direct result of Defendant Cooper's wrongful conduct, Defendant Cooper is causing OBC irreparable harm.

**COUNT V
TRADEMARK INFRINGEMENT, UNFAIR COMPETITION AND
FALSE DESIGNATION OF ORIGIN UNDER DISTRICT OF
COLUMBIA LAW**

35. OBC incorporates by reference and re-alleges, as if fully set forth herein, paragraphs 1 through 34 of this Complaint.

36. Defendants' unauthorized use of ROGUE, ROGUE 24, and similar marks, as well as the domain name **rogue24.com**, constitutes trademark infringement, unfair competition, and false designation of origin in violation of District of Columbia law because such conduct is likely to cause confusion, mistake, and deception as to the affiliation, connection, association, origin, sponsorship or approval of Defendants' services and business activities.

37. As a direct result of Defendants' wrongful conduct, Defendants are causing OBC irreparable harm.

PRAYER FOR RELIEF

WHEREFORE, OBC prays:

1. That this Court grants a permanent injunction:

- a. enjoining Defendants, their employees, owners, agents, officers, directors, attorneys, representatives, affiliates, subsidiaries, successors and assigns, and all those in active concert or having knowledge of the causes of action, from using Plaintiff's ROGUE marks, alone or in combination with any other word(s), term(s), designation(s), mark(s), and/or design(s), as well as all similar marks and domain names, including, without limitation, ROGUE and ROGUE 24, as well as the domain name **rogue24.com**;
- b. requiring Defendants to destroy all literature, signs, billboards, labels, prints, packages, wrappers, containers, advertising materials, stationery, menus and other items in their possession, custody or control that use ROGUE and ROGUE 24, as well as the domain name **rogue24.com**;
- c. requiring Defendants to transfer to Plaintiff the domain name **rogue24.com**; and
- d. requiring Defendants to file with the Court and serve on Plaintiff, within thirty (30) days after entry of an injunction, a report in writing under oath setting forth in detail the manner in which Defendants have complied with the Court's injunction.

2. That this Court grant OBC such other and further injunctive relief as it should deem just and proper.

Respectfully submitted,

/s/

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